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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032.027	12/20/2001	Kenneth McKenna	14274HUUS01U (22171.304)	5816
27683	7590	09/05/2006	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			BLOUNT, STEVEN	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 09/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/032,027

Applicant(s)

MCKENNA ET AL.

Examiner

Steven Blount

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15 - 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 - 21 is/are allowed.
- 6) ☒ Claim(s) 15 - 18, 22 - 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/5/06 has been entered.

Claim Objections

2. Claim 23 is objected to because of the following informalities: applicant apparently meant claim 23 to depend upon another claim, as there is no "queuing factor module" in claim 15. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 15 – 18 and 22 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 6,449,356 to Dezonno in view of U.S. patent 6,327,364 to Shaffer et al.

Art Unit: 2616

Dezoono teaches communication module 12, terminals 14, queuing module 24, service providers 27 – 29, and queuing results module 24. The processes claimed relating to operation of the queuing module and queuing results module are taught in:

col 4 lines 20+, col 4 lines 63+, col 9 lines 22+, col 10 lines 23 – 35, and col 11 lines 20 – 25.

Although Dezoono does not teach two separate modules for carrying out these processes (Dezoono teaches one module, 24), the examiner believes it would be quite obvious to split unit 24 into two separate “modules” as claimed. This modularization, of similar functions in a similar environment, is taught in Shaffer et al. Note in Shaffer et al, figure 1, that queue manager 12 (fairly equivalent to the “queuing results manager” as claimed”) is separate from modules 18 and 19, which are similar to the claimed queuing module.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modularized member 24 of Dezoono into two separate units comprising a queuing module and queuing results module, as claimed, in light of the teachings of Shaffer et al in order to produce a system that is more serviceable and easier to upgrade.

With regard to the following claims (hereinafter CL) note the following:

Cl 16: note any of modules 17 – 19 in Shaffer et al.

Cl 17: note the use of a monitor would make this claim obvious and note the monitors in member 10 of Shaffer et al.

CI 18: see the phones on Shaffer and note these would be an obvious equivalent of the IP phones claimed.

CI 22: see col 6 lines 15+ of Shaffer.

CI 23 (as best understood): note the use of cost in Shaffer, col 6 lines 15+.

CI 24 - 26: see host 30 in Dezonno.

5. Claims 19 – 21 are allowed.
6. Applicants remarks are moot in view of the new grounds of rejection.
7. The examiner notes that it is well established that simply dividing something into separate parts rarely renders an invention patentable, absent some new or unexpected result, which in the present case is lacking.
8. inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Blount whose telephone number is 703-305-0319. The examiner can normally be reached on M-F 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To, be reached on 571 – 272 - 7629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SB


8/22/06


CHI PHAM
SUPERVISORY PATENT EXAMINER 9/1/06